

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0414P

Gross and Adjusted Gross Income Tax
Calendar Years 1996, 1997, and 1998

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ISSUE(S)

I. **Tax Administration**—Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Delaware and has an Indiana service center. Taxpayer manufactures and sells knives and saws and provides grinding services in Indiana. Upon audit it was discovered that the taxpayer failed to file to report income at the high rate of gross income tax.

I. **Tax Administration**—Penalty

DISCUSSION

Taxpayer was assessed a penalty for failure to correctly report gross income from Indiana sources. Taxpayer's principal business activity is as a service center that provides grinding services as well as knife and saw repair. In all years of the audit, the taxpayer reported service receipts at the low rate of tax. Gross income from services of any character is taxable at the higher rate (45 IAC 1-1-96).

Taxpayer's representative, in a letter dated September 15, 2000 protested penalties assessed because it believed the business activity to be considered industrial processing and subject to the lower rate of tax. Further, based upon the findings in *Jefferson Smurfit Corporation v. Indiana Department of State Revenue*, 681 N.E.2d 806 (Ind. Tax Ct. 1997) it believed this to be a reasonable interpretation of the statute.

Taxpayer, however, utilizes a national accounting firm that should be aware of the differences between Smurfit and the taxpayer's services rendered in Indiana.

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Taxpayer did not show reasonable cause for its failure to report income at the high rate of tax.

FINDING

Taxpayer's protest is denied.

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